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Message Text

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65
ACTION AF-08

INFO OCT-01 ISO-00 PM-04 NSC-05 SP-02 SS-15 L-03 SY-05

SCCT-01 CIAE-00 DODE-00 INR-07 NSAE-00 PA-02 USIA-15

PRS-01 DHA-02 ORM-02 IO-13 /086 W
---------- 071516
R 090930Z JUL 76
FM AMCONSUL DURBAN
TO SECSTATE WASHDC 2271
INFO AMEMBASSY PRETORIA
AMCONSUL JOHANNESBURG
AMCONSUL CAPE TOWN
AMEMBASSY MBABANE
AMEMBASSY GABORONE

UNCLAS DURBAN 0311

E.O. 11652:N/A
TAGS: PINS, SHUM, PFOR, SF, WZ
SUBJECT: TERRORISM DETAINEES CHARGE POLICE WITH KIDNAPPING

REF: DURBAN 0170; MBABANE 1022

1. TWO ALLEGED MEMBERS OF THE AFRICAN NATIONAL CONGRESS (ANC) HELD IN PIETERMARITZBURG FOR "TERRORIST ACTIVITIES" SINCE MARCH (DURBAN 0170) HAVE, IN AFFIDAVITS PLACED BEFORE SUPREME COURT IN PIETERMARITZBURG, CLAIMED THEY WERE ABDUCTED FROM SWAZILAND AND TORTURED BY SOUTH AFRICAN POLICE. TWO MEN, JOSEPH NDULI AND CLEOPAS NDHLOVU, SOUTH AFRICAN REFUGEES LIVING IN SWAZILAND, CLAIM THEY WERE SEIZED WHILE IN SWAZI-LAND AND FORCED OVER THE BORDER FENCE INTO SOUTH AFRICA BY SOUTH AFRICAN POLICE MARCH 25. ONCE IN CUSTODY BOTH MEN CLAIMED THEY WERE BEATEN, GIVEN ELECTRIC SHOCKS AND SUBJECTED

TO OTHER FORMS OF TORTURE.

2. IN COUNTER AFFIDAVITS SECURITY POLICE DENIED BOTH ABDUCTING AND TORTURING THE TWO INDIVIDUALS. POLICE CLAIMED BOTH MEN
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WERE EXAMINED BY A DOCTOR AFTER BEING BROUGHT TO DURBAN

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FOLLOWING ARREST IN NORTHERN NATAL AND NO SIGNS OF TORTURE WERE FOUND. WHILE DENYING ABDUCTION CHARGE, COUNSEL FOR THE STATE CLAIMED THAT "IN TERMS OF SOUTH AFRICAN LAW, ONCE THERE IS A LAWFUL DETENTION, THE CIRCUMSTANCES OF THE ARREST OR CAPTURE--EVEN IF THEY ARE IN VIOLATION OF THE LAW--ARE IRRELEVANT." THE GOVERNMENT ALSO INVOKED, FOR THE FIRST TIME. SECTION 6 OF THE 1976 INTERNAL SECURITY AMENDMENT ACT WHICH PRECLUDES THE RELEASE OF PERSONS PENDING THE OUTCOME OF A CRIMINAL TRIAL, AND CONTENDED THAT THE TWO MEN WERE NOT ENTITLED TO RELEASE EVEN IF THEY HAD BEEN CAUGHT ON SWAZILAND SOIL SINCE THEIR ALLEGED CRIMES "CONSTITUTED IN PART CRIMES AGAINST HUMANITY." ACTUAL TRIAL SCHEDULED TO BEGIN JULY 12. DEFENSE HAS INDICATED THEY WILL RAISE ABDUCTION ISSUE DURING TRIAL IF PRE-TRIAL MOTION REJECTED.
FARBER

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Disposition Authority: n/a
Disposition Case Number: n/a
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